

1 JONATHAN DAVID FRANK  
160 Thorn Street Suite 2  
2 San Diego, CA 92103  
(619) 291-4475  
3 State Bar Number 89384  
4 Attorney for Material Witnesses  
5  
6  
7

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
10 Hon. CATHY ANN BENCIVENGO

11 UNITED STATES OF AMERICA,	)	Case No. 07CR2531W
	)	Mag. No.
12 Plaintiff,	)	
	)	DECLARATION OF COUNSEL
13 v.	)	IN SUPPORT OF MOTION FOR
	)	VIDEO DEPOSITION OF
14 PADILLA, et. al.,	)	MATERIAL WITNESS
	)	
15 Defendants.	)	DATE: November 29, 2007
	)	TIME: 9:30 A. M.
	)	DEPT: Bencivengo

---

17 I, JONATHAN DAVID FRANK declare:

18 I am an attorney duly licensed to practice before all the courts  
19 of this State and this District and Circuit. I am the attorney of  
20 record for the material witness in the above action. I have personal  
21 knowledge of the facts set forth in this action and could testify  
22 competently thereto if called.

23 My client, OTONIEL MENDOZA ARREOLA, in this action, has been  
24 in federal custody since September 1, 2007. He has been held as a  
25 material witness in the above captioned case. My client has been  
26 unable to locate a surety to post bond.

27 This case was indicted on or about October 4, 2007.

28 My client has indicated to me that each day he spends in custody

1 is a hardship to my client and his family as he is unable to help to  
2 support his wife and children.

3 The testimony of the witness could be secured via videotaped  
4 deposition. This is a procedure in routine practice in this district  
5 in material witness cases. At such a deposition, all parties would  
6 be given the opportunity to fully and completely examine the witness.  
7 In addition, the proceedings would be videotaped creating a visual  
8 and auditory record of the proceeding. Such videotaped deposition  
9 could be introduced at trial in stead of the live testimony of the  
10 material witness.

11 Further, there are three other material witnesses who are out on  
12 bond.

13 Based on the above it respectfully requested that this motion be  
14 granted, that said deposition take place at the earliest possible  
15 time, and that my client be allowed to voluntarily return to his home  
16 in Mexico immediately thereafter.

17 I declare under the penalty of perjury under the laws of the  
18 United States of America that the foregoing is true and correct of my  
19 own personal knowledge except as to those matters stated to be based  
20 upon information and belief and, as to those matters, I am informed  
21 and believe that they are true and correct. Executed this November  
22 15, 2007 in San Diego, California.

23 /s/\_\_\_\_\_  
24 JONATHAN DAVID FRANK,  
25 Attorney for Material Witnesses  
26  
27  
28